

CELENA TRUJILLO
Claimant
VS.
WAL-MART
Respondent
AND
CLAIMS MANAGEMENT, INC.
Insurance Carrier

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After reviewing the May 7, 2001 hearing transcript and considering respondent and its insurance carrier's arguments, the Board concludes that this appeal should be dismissed.

First, an order for terminal dates is an interlocutory order entered by an administrative law judge that may be modified by the judge before the final award. It is neither a preliminary hearing finding, nor a final order or final award, that is subject to review by the Board before the final award.¹ The Board concludes it does not have jurisdiction at this stage of the claim to review the Judge's interlocutory order regarding the parties' terminal dates.

Second, the Board generally does not review issues that were not presented to the administrative law judge. The Workers Compensation Act provides:

. . . The review by the board shall be upon questions of law and fact as presented and shown by a transcript of the evidence and the proceedings **as presented, had and introduced before the administrative law judge.**² (Emphasis added.)

Respondent and its insurance carrier did not object to their terminal date at the May 7, 2001 hearing. Conversely, respondent and its insurance carrier's counsel agreed with the dates set by the Judge. The hearing transcript reads:

THE COURT: Why don't I pick a date. If that doesn't work, then maybe the parties can stipulate to an extension of terminal dates. But instead of setting it for June 7th, why don't I set it for June 21st, if no one has any objection.

MR. KING [respondent and its insurance carrier's counsel]: June 21st for whom?

THE COURT: For you.

MR. KING: Okay.

THE COURT: And it would be July 23rd -- I do not set it on a weekend -- for Mr. Levy.

MR. LEVY [claimant's counsel]: Okay.

THE COURT: And obviously, if you can't agree to an extension of terminal date[s], if that becomes an issue, you can always file a motion prior to your terminal date.

¹ See K.S.A. 44-534a and K.S.A. 44-551.

² K.S.A. 44-555c.

MR. KING: I think that will be fine for us, Your Honor. . . .³

Later in the hearing, the Judge asked the parties' attorneys if there were any additional issues. And respondent and its insurance carrier's counsel said there were none. The Board concludes the terminal date issue was not presented to the Judge for consideration. That issue may not be raised for the first time on this appeal.

WHEREFORE, the Board dismisses this appeal.

IT IS SO ORDERED.

Dated this ____ day of August 2001.

BOARD MEMBER

BOARD MEMBER

BOARD MEMBER

c: Robert Levy, Garden City, KS
Janell Jenkins Foster, Wichita, KS
Pamela J. Fuller, Administrative Law Judge
Philip S. Harness, Director

³ Transcript of Proceedings, May 7, 2001; pp. 4, 5.